

a movable member arranged with a pressure receiving portion in said frame and made movable in a first direction toward said loading chamber and in a second direction opposite to the first direction . . . a drive mechanism partially inserted into a cylindrical guide disposed in said frame and engaging mechanically with said movable member, said drive mechanism being movable in said first and second directions and operative to move said movable member in said first direction in response to the operation of said trigger . . . a gas supply controller engaging with said cylindrical guide and affecting a gas outlet passage to be put in a gas supply state, in which gas is supplied to said gas outlet passage, by the movement of said drive mechanism in said cylindrical guide responding to the operation of said trigger . . .

At the very least, Kunimoto '087 and '483 fail to disclose or suggest any of these exemplary features recited in the independent claim 1.

To establish anticipation under 35 U.S.C. § 102(b), the Examiner must show that each and every feature recited in these claims is either explicitly disclosed or “necessarily present” in a single prior art reference, such as within the four corners of the Kunimoto patents. *See* M.P.E.P. § 2131(7th ed. 1998); *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999); *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1269 (Fed. Cir. 1991). To support a conclusion of anticipation, the Examiner must specifically identify “substantial evidence” setting forth why and how the single prior art reference anticipates each and every feature recited in the claims. *See In re Mullin*, 481 F.2d 1333, 1336-37 (CCPA 1973) (An Examiner’s bare assertion that claims were obviously anticipated by a reference did not inform the Applicant as to why the claims lacked novelty); *Dickinson v. Zurko*, 527, U.S. 150 (1999) (The U.S. Patent Office’s findings of fact must be reviewed by the substantial evidence standard).

Viewed against this backdrop, each of the Examiner’s factual conclusions must be supported by “substantial evidence” in the documentary record. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1432 (Fed. Cir. 2002). The Examiner has the burden of documenting all findings of fact necessary to support a conclusion of anticipation or obviousness “less to ‘haze of so-

called expertise' acquire insulation from accountability." Id. To satisfy this burden, the Examiner must specifically identify where support is found within the prior art to meet the requirements of 35 U.S.C. §§ 102(b). In this case, however, the Examiner cannot satisfy his burden of demonstrating how Kunimoto '087 or '483, taken alone or in combination with any other prior art reference, can either render obvious each and every one of the limitations present in independent claim 1 as required by the Manual of Patent Examining Procedure ("MPEP") and Federal Circuit jurisprudence.

Kunimoto '087 and '483 disclose a model gun with an automatic bullet supplying mechanism. Beginning on page 3 of the current Office Action, the Examiner lists the components of Kunimoto '087's model gun which allegedly teach the elements of the claimed invention. The Examiner further states on page 4 that Kunimoto '483 has the same or similar relevant structure. However, there are a number of listed elements which do not and cannot be considered to teach the features of the present invention as claimed.

For example, item 51 (as listed by the Examiner) of Kunimoto '087 cannot properly correspond to the movable member of claim 1, because, *inter alia*, it is not "arranged with a pressure receiving portion . . . and made movable in a first direction toward said loading chamber and in a second direction opposite to the first direction," as recited in the claims. Likewise, item 5 (as denoted by the Examiner) cannot fully teach the drive mechanism of the present invention in that it fails to, at least, be "partially inserted into a cylindrical guide disposed in said frame," as recited in claim 1. These constitute clear differences in the prior art from the claimed invention and disqualifies the cited prior art references under 35 U.S.C. § 102. Even further, the M.P.E.P. 2143.03 requires that every word in a claim must be considered and no limitation, functional or otherwise, can simply be ignored without being addressed.

For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present (M.P.E.P. 706.02). Since each and every element, as set forth in the claims are not found either expressly or inherently described as required by the M.P.E.P., Kunimoto '087 and '483 cannot be said to anticipate the invention as claimed. Hence, withdrawal of the rejection is respectfully requested.

Each of the dependent claims depend from independent claim 1 and are patentable over the cited prior art for at least the same reasons as set forth above with respect to claim 1.

In addition, each of the dependent claims also recite combinations that are separately patentable.

In view of the foregoing remarks, this claimed invention, as amended, is not rendered obvious in view of the prior art references cited against this application. Applicant therefore request the entry of this response, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

In discussing the specification, claims, and drawings in this response, it is to be understood that Applicant in no way intends to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned patent agent at (202) 585-8316.

Respectfully submitted,

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